



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 20 अप्रैल, 1974/30 चैत्र, 1896

GOVERNMENT OF HIMACHAL PRADESH

PERSONNEL (A) DEPARTMENT

NOTIFICATION

Simla-2, the 29th March, 1974

No. 2-1/70-DP(Apptt. II).—In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, and in consultation with the Himachal Pradesh High Court, the Governor, Himachal Pradesh is pleased to make the following rules regulating the recruitment and conditions of service of persons appointed to the Himachal Pradesh Higher Judicial Service.

RULES

Short title and commencement. 1. (1) These rules may be called the Himachal Pradesh Higher Judicial Service Rules, 1973.
(2) They shall come into force from the date of their publication in the official Gazette.

Definition.

2. In these rules, unless the context otherwise requires;—

(1) 'appointment to the service' means an appointment to cadre post, whether on permanent, temporary or officiating basis, or on probation;

(2) 'cadre post' means a permanent post in the service;

(3) 'direct recruit' with its grammatical variations and cognate expressions means a person—

(a) who, at the time of his appointment of the service was not already in Judicial Service; or

(b) who is appointed to the service in accordance with the provisions of rule 9;

(4) 'ex-cadre post' means a temporary post of the same rank as a cadre post;

(5) 'High Court' means the High Court for the State of Himachal Pradesh;

(6) 'member of the service' means a person—

(a) who, immediately before the commencement of these rules, holds a cadre post, whether permanent, temporary or officiating basis, or on probation;

(b) who is appointed to a cadre post in accordance with the provisions of these rules;

(7) 'promoted officer' means a person—

(a) who is not a direct recruit and is holding a cadre post whether on permanent, temporary or officiating basis, or on probation, immediately before the commencement of these rules; or

(b) who is appointed to the service by promotion from Himachal Pradesh Judicial Service;

(8) 'service' means the Himachal Pradesh Higher Judicial Service.

Constitution of the Service.

3. The service shall consist of—

(a) persons holding cadre post, whether on permanent, temporary or officiating basis, or on probation, immediately before the commencement of these rules; and

(b) persons appointed to the service in accordance with the provisions of these rules.

Appointing authority.

4. All appointments to the service shall be made by the Governor, in consultation with the High Court.

Nationality of candidates

5. (1) A candidate for appointment to the service must be,—

(a) A citizen of India; or

(b) A subject of Sikkim; or

- (c) a subject of Nepal; or
- (d) a subject of Bhutan; or
- (e) a Tibetan refugee who came to India before the 1st January, 1962, with the intention of permanently settling in India; or
- (f) a person of Indian origin who has migrated from Pakistan, Burma, Ceylon, East African Countries of Kenya, Uganda and the United Republic of Tanzania (formerly Tanganyika and Zanzibar) with the intention of permanently settling in India:

Provided that a candidate belonging to categories (c), (d), (e) and (f) shall be a person in whose favour a certificate of eligibility has been given by the Government of India and if he belongs to category (f), the certificate of eligibility will be issued for a period of one year, after which he will be retained in service only if he had acquired Indian citizenship.

(2) A candidate in whose case a certificate of eligibility is necessary may be appointed to the service subject to the necessary certificate being given to him by the Government of India.

6. No person who has more than one wife living or is married to a person who already has a wife living shall be eligible for appointment to any post in the service unless the Governor, for special reasons, exempts such person from the operation of this rule.

Disqualifi-
cation.

7. The permanent posts borne on and composition of the service shall be as specified in Appendix 'A' to these rules:

Posts in ser-
vice.

Provided that nothing herein shall affect the power of the Governor to add to or reduce the number of the posts, specified in Appendix 'A' in consultation with the High Court.

8. (1) Recruitment to the service would mean by promotion and direct recruitment in the following manner:—

Recruitment
to service.

- (a) 2/3rd by promotion;
- (b) 1/3rd by direct recruitment:

Provided that this ratio would apply only to the recruitments to be made after the coming into force of these rules:

Provided further that nothing in this rule shall prevent the officiating appointment of a member of the Himachal Pradesh Judicial Service on any post which is to be filled up by direct recruitment, till a direct recruit is appointed.

- 9. (1) No person shall be eligible for direct recruitment unless he,—
 - (i) is not less than 35 years and not more than 45 years of age on the first day of January, next following the year in which his appointment is made;
 - (ii) has been for not less than 7 years an Advocate or a Pleader and is recommended by the High Court, after it has held an interview or an examination or both as may be prescribed by it, for such appointment.

Appoint-
ment of
direct rec-
ruits.

(2) No person who is recommended by the High Court for appointment under sub-rule (1) shall be appointed unless he is found physically fit by a

Medical Board set up by the Governor, and is also found suitable for appointment in all other respects.

Probation.

10. (1) Direct recruits to the service shall remain on probation for a period of two years, which may be so extended by the Governor in consultation with the High Court as not to exceed a total period of three years:

Provided that the Governor may in exceptional circumstances of any case, after consulting the High Court, reduce the period of probation.

(2) On the completion of the period of probation the Governor may, in consultation with the High Court, confirm a direct recruit on a cadre post with effect from a date not earlier than the date on which he completes the period of probation.

(3) If the work or conduct of a direct recruit has, in the opinion of the Governor, not been satisfactory he may, at any time, during the period of probation or the extended period of probation, if any, in consultation with the High Court, and without assigning any reason, dispense with the services of such direct recruit.

Confirmation of promoted officers.

11. (1) A promoted officer shall be considered for confirmation on completion of two years of his being appointed to the service and if found fit, the Governor may, in consultation with the High Court, confirm him on a cadre post with effect from the date not earlier than the date on which he completes two years of service:

Provided that the Governor may in exceptional circumstances of any case, after consulting the High Court, reduce the period of probation.

(2) The Governor, in consultation with the High Court, may extend the period of officiation of a promoted officer but the total period of officiation against the cadre post in the Higher Judicial Service shall in no case exceed three years.

(3) *Reversion of promoted officers.*—If the work or conduct of a promoted officer officiating on a cadre post has, in the opinion of the Governor, not been satisfactory, he may, at any time during the period of officiation, in consultation with the High Court,—

(i) revert him to his substantive post; or

(ii) deal with him in such other manner as may be warranted by the terms and conditions of his substantive appointment.

Seniority.

12. The seniority, inter se, of the substantive members of the service, whether direct recruits or promoted officers, shall be determined with reference to the respective dates of their confirmation:

Provided that the seniority, inter se, of substantive members of the service having the same date of confirmation shall be determined as follows:—

(i) in the case of direct recruits, the older in age shall be senior to the younger;

(ii) in the case of promoted officers, in accordance with the seniority in the Himachal Pradesh Judicial Service as it stood immediately before their confirmation;

(iii) in the case of promoted officers and direct recruits the older in age shall be senior to the younger.

13. (1) The scale of pay of members of the service, other than those placed in selection Grades, shall be the senior scale of the Indian Administrative Service as allowed from time to time, and their pay in the aforesaid scale shall be fixed in accordance with the rules and instructions that have been issued or may hereafter be issued by the Government of India with regard to fixation of pay in the senior scale of the Indian Administrative Service.

Pay of members of the service.

(2) Notwithstanding anything contained in sub-rule (1) the initial pay of a direct recruit, to be appointed after the commencement of these rules, shall be fixed at such stage in the permissible time-scale as may be determined in each case by the Governor, in consultation with the High Court and the Finance Department, having regard to his age and the length and extent of his previous practice as an Advocate or Pleader, subject to a maximum of Rs. 1300 per month.

14. (1) The members of the service shall be eligible for promotion, permanently or provisionally to the following selection grade posts, carrying scales of pay specified against them:—

Selection grades.

One selection grade post in the time-scale of Rs. 1800-100-2000; and
One selection grade post in the time-scale of Rs. 2500-125/2-2750.

(2) Promotions to the selection grade posts shall be made on merit and suitability in all respects with due regard to seniority and no member of the service shall be entitled as of right to such promotion.

15. (1) The Governor may, in consultation with the High Court, create such number of ex-cadre posts and for such period as may be necessary from time to time.

Ex-cadre posts.

(2) A person appointed to an ex-cadre post by the Governor in consultation with the High Court shall, in the matter of discipline, pay, fixation of pay, leave, and other cognate matters be governed by the provisions of these rules as if he were a member of the service for those purposes.

(3) If the work or conduct of a person officiating against an ex-cadre post has, in the opinion of the Governor, not been satisfactory, he may, at any time during the period of officiation, in consultation with the High Court,—

- (i) dispense with his service if he was not already in the service of the State before his appointment; or
- (ii) revert him to his substantive appointment; or
- (iii) deal with him in such other manner as the terms and conditions of his previous appointment permit.

16. In respect of death-cum-retirement benefits of the members of the service shall be governed by the All India Services (Death-cum-Retirement Benefits) Rules, 1958, as amended from time to time.

Death-cum retirement benefits.

17. (1) In matters relating to discipline, penalties and appeal, members of the service shall, without prejudice to the provisions of the Public Servants (Inquiries) Act, 1850, be governed by the H. P. Civil Service (Punishment and Appeal) Rules, 1972 as amended from time to time:

Discipline, penalty and appeal.

Provided that the nature of penalties which may be imposed and the authority empowered to impose such penalties shall, subject to the provisions

of any law or rules made under Article 309 of the Constitution of India, be as specified in Appendix 'B':

Provided further that the competent authority shall, before imposing any penalty, consult the High Court.

(2) The authority competent to make an order under clause (c) and (d) of sub-rule (1) of rule 10 of the Punjab Civil Services (Punishment and Appeal) Rules, 1952 as applicable in Himachal Pradesh or other corresponding rules shall be the Governor who shall before passing any order consult the High Court.

Oath of
allegiance.

18. Every member of the service unless he has already done so, shall be required to take the oath of allegiance to India and to Constitution of India as by law established.

Publication
of grounds
of dismissal.

19. If a member of the service is dismissed by the Governor as a result of a departmental inquiry or an inquiry under the Public Servants (Inquiries) Act, 1850 or on conviction on a criminal charge by a Court, the Governor may publish in the official Gazette the reasons for such dismissal, if he is of the opinion that such publication is desirable in public interest.

General.

20. In respect of leave, travelling allowance and other matters not expressly provided for in these rules, the members of the service shall be governed by such general rules as may have been, or may hereafter be, framed from time to time by the competent authority under Article 309 of the Constitution of India.

Power to
relax.

21. Where the Governor is satisfied that the operation of any of these rules regulating the conditions of service causes undue hardship in any particular case, he may, in consultation with the High Court, by order dispense with or relax the requirements of that rule to such extent, and subject to such condition, as he may consider necessary for dealing with the case in a just and equitable manner.

APPENDIX 'A'

(See Rule 7)

Details of posts constituting the Himachal Pradesh Higher Judicial Service.

Designation of posts	Number of posts
1. Legal Remembrancer and Secretary Law to the Government of Himachal Pradesh.	One
2. Registrar, Himachal Pradesh High Court	One
3. District and Sessions Judges	Five
4. Additional District and Sessions Judges	Two
5. Deputation and Leave Reserve	Two

APPENDIX 'B'
(See Rule 7)

Nature of penalty	Authority empowered to impose penalty	Appellate Authority
<ul style="list-style-type: none"> (i) Censure (ii) Withholding of increments or promotion including stoppage at an efficiency bar. (iii) Reduction to a lower post or time-scale or to a lower stage in a time-scale. (iv) Recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders. (v) Removal from the Civil Service which does not disqualify from future employment. (vi) Dismissal from Civil Service which ordinarily disqualifies from future employment. 	Governor	Nil

U. N. SHARMA,
Chief Secretary.

